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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2045 OF 2006
AND
CIVIL APPLICATION NO. 2044 OF 2006
IN
WRIT PETITION NO. 3399 OF 1998

Union of India & anr.
through General Manager,
Western Railway. ... Applicants.

V/s

S.B. Sayyed & ors. ... Respondents

Ms. N.V. Masurkar for the applicants.

Ms. Anjali Helekar holding for Mr. S.M. Dharap for the respondents.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 6TH JULY, 2007.

P.C.:

1. These civil applications have been filed by the Union of India. According to the learned advocate appearing for the applicants, the original petitioner, Civil Application No. 2044 of 2006 in Writ Petition No. 3399 of 1998 has been filed by the Union of India, the applicant herein, for restoration of the writ petition. Civil Application No. 2045 of 2006 is filed for condoning the delay in filing the application for

restoring the writ petition. Both these civil applications are not in the proper format in which they are expected to be. No specific prayers are made in the civil applications and on this ground alone, they ought to be dismissed. Apart from this, it is surprising that the office of this Court has accepted such applications which are in the form of affidavits and has numbered them when there are no specific prayers made.

2. According to the learned advocate for the applicants, the writ petition was dismissed for default on 22.1.1999 after which the applicants had filed a civil application for restoration of the writ petition. The learned advocate for the applicants states that a civil application was filed in the year 1999 itself, soon after the dismissal of the writ petition. She submits that enquiries were made by the petitioners with the office of this Court to find out the status of the civil application. No date is mentioned as to when these enquiries were made. However, it has been stated in the application that the civil application was not found on the record of this Court when they checked the Computer Information Centre. The applicants made enquiries in the Record Department which is shifted to the Small Causes Court and were informed that no such civil application existed. A photocopy of that

application is produced and annexed to the present application. According to the learned advocate, the copy is at page No. 5 of the Civil Application No. 2045 of 2006. The Stamp Number has been mentioned at the top of the page, according to the learned advocate.

3. A perusal of page No.5 indicates that this is an affidavit by Sanjay Singhal, the Chief Law Assistant of the Western Railway. It is not a civil application as is made out by the learned advocate. There is no stamp on this affidavit. It appears that the petitioners are trying to play a fraud on this Court by contending that a civil application had been filed by them in the year 1999 and that it is missing from the record of this office. This conduct of the petitioners needs to be deprecated in the strongest terms.

4. Civil Application Nos. 2045 of 2006 and 2044 of 2006 dismissed with costs quantified at Rs.2,500/- each. Costs to be paid to the Maharashtra State Legal Services Authority.

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